UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,107	08/26/2003	Guerney D.H. Hunt	YOR920030135US1	7225

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EXAMINER
KAWSAR, ABDULLAH AL

ART UNIT	PAPER NUMBER
2195	

NOTIFICATION DATE	DELIVERY MODE
05/14/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pair@tuchmanlaw.com
idotuchman@gmail.com

PTOL-90A (Rev. 04/07)

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>17 January 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on ____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

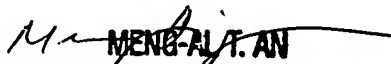   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): ____.

6. ☐ Newly proposed or amended claim(s) ____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: ____.

   Claim(s) objected to: ____.

   Claim(s) rejected: *1-5, 7-17, 19-28, 30-34*.

   Claim(s) withdrawn from consideration: ____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). ____.

13. ☐ Other: ____.

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Continuation of 3. NOTE:

Claims 12, 13 and 24 as proposed now specify that wherein the management policy includes requiring that an expiration date of the resource tier occur after a mantenance date. This newly added limitation would change the scope of the claim and would require further consideration and search.

As to claim objections amendment to claim 12 to overcome claim objection has been fully considered. If presented seperately claim objection would be overcome by the proposed amendment however it is been noted that claim amendment introduces new limitation(system including a processor) which would change the scope of the claim and necessitate further consideration search.

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's argued that finality of rejection is prematured, this argument is not persuasive. In perticular as to claim 9 applicants argument is not persuasive because same reference was used to show the limitations of claim 9 in final office action even though the scope of claim 9 has changed due to amendment to claim 1. As to claim 11 applicant's argument is not persuasive because claim scope has changed due to amendment od claim 11 and independent claim 1, therefore necessitating new grounds of rejection. Refer to original and ameded claim 11.

As to claim 1, applicant argues that Bucky does not teach requiring an expiration date after a maintenance date. Rejection is a 103 rejection where tivoly teaches use of automated administor defined policy management(page 2, col 2, lines 1-4 through col 3, lines 1-7) and Bucky teaches calculating the life expectancy of the resource tier to be able to make administrative decision or manage the tier(page 1, col 2, lines 13 – 18 through page 2, col 1, lines 1-8; page 2, col 2, lines 41-48 through page 3, col 1, lines 1-2). The modification would have been obvious because one of the oridinary skills in the art would have been motivated to be able know the expiration date according to the file growth rate for better management of the resource tier and prevent system outage. Tivoly teaches the automated monitoring of the system from any system failure of policy defined threshold and constantly allocates storage as needed(page 1, col 1, lines 1-20). Since the system keeps monitoring the container according to the policy defined threshold continuously the expiration date of the container will be always after the maintenance date.

As to claim 4, applicant argues that Bucky does not teach allocating additional capacity to the container utilizing capacity of other containers. Bucky teaches moving files from the container to other containers if space is available and that would increase the capacity of the container to be able to have more storage space(Page 4, col 2, lines 12-13).

As to claim 5, applicant argues Bucky does not teach containers not vary in importance. Bucky teaches having containers that are reaching the threshold and the fastest growing container is the prime candidate(page 4, col 2, lines 43 – 44). Prime candidate container is the container with higher importance and would require sevice before any other container in the list which also shows that containers vary in importance.

As to claim 8, applicant argues that Bucky does not teach calculating the life expectancy of all the containers in the resource tier. Bucky teaches calculating the growth pattern of the containers(page 4, col 1, lines 1 – 5) and to organize them according to the life expectency (page 4, col 1, lines 10 – 11). The growth pattern of the file system is the life expectancy of the container and each container keeps has a growth pattern set which is the life expectancy calculation.

As to claim 9, applicant argues that Bucky does not teach accounting the lead-time calculating the life expectancy of the container. Bucky teaches calculating the life expectancy of the container (page 3, col 1, lines 1-2; lines 34-40) and also discloses having sufficient lead-time for making storage decision (page 3 col 1, lines 1 – 14). Calculating life expectency is for making storage decision which means determining lead-time for storage decisions incorporates with life expectancy calculation of the container.

As to claim 10, applicant argues that Tivoly does not teach alert is issued if the system cannot be brought into compliance with the management policy. Tivoli teaches monitoring the system and alerting in problems(page 3, col 1, lines 12 – 13). Tivoli also discloses the system is monitored from reaching policy defined threshold or capacity level (page 2, col 3, lines 3-7) which is not being able to increase the capacity of the container.

As to claim 11, applicant agrues that Styczinski fails to teach a management policy. The rejection is a 103 rejection with Styczinski inview of Tivoli and Bucky. Stycziniski teaches compressing date to increase the capacity of the container(col 15, lines 15-32) which is the management policy in the system as taught and defined by Tivoli and Bucky. The modification would have been obvious because one of the ordinary skills of the art would compress data in the container to increase space availability for the system to be able to work without any system crash which could be incorporated as management policy.

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